

SENATE, No. 2705

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED APRIL 25, 2013

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator DIANE B. ALLEN

District 7 (Burlington)

Co-Sponsored by:

Senator Oroho

SYNOPSIS

Enacts the “Jessica Lunsford Act”; imposes mandatory term of imprisonment; provides for negotiated reduction of mandatory term under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/31/2013)

1 AN ACT concerning certain sexual assaults, designated the “Jessica
2 Lunsford Act,” and amending N.J.S.2C:14-2.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. N.J.S.2C:14-2 is amended to read as follows:

8 2C:14-2. Sexual assault. a. An actor is guilty of aggravated
9 sexual assault if he commits an act of sexual penetration with
10 another person under any one of the following circumstances:

11 (1) The victim is less than 13 years old;

12 (2) The victim is at least 13 but less than 16 years old; and

13 (a) The actor is related to the victim by blood or affinity to the
14 third degree, or

15 (b) The actor has supervisory or disciplinary power over the
16 victim by virtue of the actor's legal, professional, or occupational
17 status, or

18 (c) The actor is a resource family parent, a guardian, or stands
19 in loco parentis within the household;

20 (3) The act is committed during the commission, or attempted
21 commission, whether alone or with one or more other persons, of
22 robbery, kidnapping, homicide, aggravated assault on another,
23 burglary, arson or criminal escape;

24 (4) The actor is armed with a weapon or any object fashioned in
25 such a manner as to lead the victim to reasonably believe it to be a
26 weapon and threatens by word or gesture to use the weapon or
27 object;

28 (5) The actor is aided or abetted by one or more other persons
29 and the actor uses physical force or coercion;

30 (6) The actor uses physical force or coercion and severe
31 personal injury is sustained by the victim;

32 (7) The victim is one whom the actor knew or should have
33 known was physically helpless, mentally incapacitated, or had a
34 mental disease or defect which rendered the victim temporarily or
35 permanently incapable of understanding the nature of his conduct,
36 including, but not limited to, being incapable of providing consent.

37 Aggravated sexual assault is a crime of the first degree.

38 Except as otherwise provided in subsection d. of this section, a
39 person convicted under paragraph (1) of this subsection shall be
40 sentenced to a specific term of years which shall be fixed by the
41 court and shall be between 25 years and life imprisonment of which
42 the person shall serve 25 years before being eligible for parole,
43 unless a longer term of parole ineligibility is otherwise provided
44 pursuant to this Title.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

(cf: P.L.2011, c.232, s.4)

2. This act shall take effect immediately.

This bill, designated the “Jessica Lunsford Act,” would impose mandatory terms of imprisonment on persons convicted of aggravated sexual assault against a child under the age of 13. The

1 bill would also authorize negotiated reductions of the term under
2 certain circumstances.

3 Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person
4 is guilty of aggravated sexual assault, a crime of the first degree, if
5 he commits an act of sexual penetration with a victim under the age
6 of 13. A crime of the first degree is ordinarily punishable by a term
7 of imprisonment of 10 to 20 years or a fine of up to \$200,000 or
8 both. Under the bill, the person would be sentenced to a specific
9 term of years fixed by the court. The term would be between 25
10 years and life imprisonment of which the person must serve 25
11 years before being eligible for parole, unless a longer term of parole
12 ineligibility is otherwise provided pursuant to law.

13 In addition, the bill would allow for a negotiated reduction of the
14 mandatory term under certain circumstances. Under the bill, the
15 prosecutor, in consideration of the interests of the victim, would be
16 authorized to offer a negotiated plea agreement in which the
17 defendant would be sentenced to a specific term of imprisonment of
18 not less than 15 years, during which the defendant shall not be
19 eligible for parole. The court may accept the negotiated plea
20 agreement and impose the term of imprisonment and period of
21 parole ineligibility as provided for in the plea agreement. The court
22 may not impose a lesser term of imprisonment or parole or a lesser
23 period of parole ineligibility than that expressly provided in the plea
24 agreement. The bill requires the Attorney General to develop
25 guidelines to ensure the uniform exercise of discretion in making
26 determinations regarding a negotiated reduction in the term of
27 imprisonment and period of parole ineligibility.

28 This bill is modeled on provisions of Florida's "Jessica Lunsford
29 Act," Chapter No. 2005-28. Jessica, a nine-year-old Florida
30 resident, was kidnapped, raped, and murdered by a registered sex
31 offender. The Florida enactment imposed a mandatory term of
32 imprisonment of 25 years for sex crimes against children and
33 required satellite monitoring to track the location of sex offenders
34 after release.

35 In 2007, New Jersey enacted a statute similar to the provision of
36 the Florida enactment that provided for satellite monitoring to track
37 the location of sex offenders after release, P.L.2007, c.128 (C.30:4-
38 123.89 et seq.).